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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

THOMAS FERNANDEZ, LORA SMITH,
and TOSHA THOMAS

Plaintiffs,

vs.

K-M INDUSTRIES HOLDING CO., INC.;
K-M INDUSTRIES HOLDING CO., INC.
ESOP PLAN COMMITTEE; WILLIAM
E. AND DESIREE B. MOORE
REVOCABLE TRUST; TRUSTEES OF
THE WILLIAM E. AND DESIREE B.
MOORE REVOCABLE TRUST;
ADMINISTRATOR OF THE ESTATE OF
WILLIAM E. MOORE, DECEASED; CIG
ESOP PLAN COMMITTEE; and NORTH
STAR TRUST COMPANY,

Defendants.

Case No. C06-07339 CW

**NOTICE OF SETTLEMENT,
WITHDRAWAL OF MOTION FOR
SUMMARY JUDGMENT, AND
STIPULATION AND ORDER CLEARING
ALL DATES IN THIS MATTER AS
MODIFIED**

WHEREAS, Plaintiffs and Defendant North Star Trust Company ("NSTC") (collectively, the "Parties") have reached a settlement of the above-titled class action;

WHEREAS, the Parties are in the process of preparing the Settlement Agreement and the related Notice of Class Settlement, Motion for Preliminary Approval, [Proposed] Order, and Final Judgment;

1 WHEREAS, the Parties anticipate that they will be able to submit the above documents to
2 the Court within the next four weeks;

3 WHEREAS, NSTC, through this notice, withdraws its Motion for Summary Judgment,
4 currently scheduled to be heard before this Court on December 10, 2009;

5 WHEREAS, Plaintiffs, through this notice, withdraw their evidentiary motions related to
6 NSTC's Motion for Summary Judgment, currently scheduled to be heard before this Court on
7 December 10, 2009; and

8 WHEREAS, the settlement of this case renders moot the other deadlines set by the Court
9 in its Pre-Trial Schedule Order;

10 NOW THEREFORE, FOR GOOD CAUSE SHOWN, THE PARTIES HEREBY
11 STIPULATE and AGREE that NSTC's Motion for Summary Judgment and all related
12 evidentiary motions shall be withdrawn and the December 10, 2009 hearing on that Motion shall
13 be cancelled. Additionally, the Parties jointly request that the Court vacate the dates set in its Pre-
14 Trial Scheduling Order in this case.

15 Dated: November 25, 2009 LEWIS, FEINBERG, LEE, RENAKER & JACKSON, P.C.

16 /s/ Todd F. Jackson (with permission)

17 By: Todd F. Jackson, Esq.
Attorneys for Plaintiffs

18 Dated: November 25, 2009 MORGAN, LEWIS & BOCKIUS LLP

19 /s/ Donald P. Sullivan

20 By: Donald P. Sullivan, Esq.
Attorneys for Defendant North Star Trust Company

21 **PURSUANT TO STIPULATION, IT IS SO ORDERED**

22 The Court hereby vacates the dates set in its Pre-Trial Scheduling Order, withdraws
23 NSTC's Motion for Summary Judgment and Plaintiffs' related evidentiary motions, and cancels
24 the December 10, 2009 hearing on that Motion. **A Case Management Conference will be held**
25 **on April 27, 2010, at 2:00 p.m.**

26 Dated: ____12/1/ 2009



27 _____
Hon. Claudia Wilken, U.S. District Judge